

Serial No. 10/624,182

Atty Dkt No. 706263US2

REMARKS:

Applicant has carefully reviewed the Examiner's comments in the Office Action and has prepared the following response. Claims 1 - 16 remain pending in this application. No claims have been cancelled.

The Examiner rejected claims 1 - 16 under 35 USC §103(a) as being unpatentable over Barbour (4,639,032) in view of Hsiao (3,693,564) and ordinary skill in the art. Applicant respectfully traverses this rejection and reconsideration is respectfully requested in view of the following comments.

Applicant notes that the Examiner's basis for rejection of claims 1 – 16 makes reference to a bell crank lever arm and a spring loaded interlock. Applicant points out that neither a bell crank lever arm nor a spring loaded interlock are limitations of independent claim 1.

Applicant's invention as claimed in independent claim 1 requires a closure member having an internal cavity formed therein; an orifice positioned in an external surface of the closure member; a track mechanism disposed in the internal cavity in alignment with the orifice; a step member engaged with the track mechanism and arranged to slideably extend through the orifice and pivot to a deployed position to provide a vehicle step when the closure member is in the generally open horizontal position; and an interlock assembly engageable by the step member and arranged to prevent closing of the vehicle closure member when the step member is in the deployed position. (Underlining added for emphasis).

In contrast, neither Barbour nor Hsiao, whether considered singularly or in combination, provide any suggestion whatsoever for providing an interlock assembly in a vehicle closure member to prevent closing of the vehicle closure member when the step member is in the deployed position. Specifically, Barbour does disclose a step member assembly, but as acknowledged by the Examiner, does not disclose an interlock assembly. While the Examiner has stated it would have been obvious to modify Barbour, the Examiner has not demonstrated why one of ordinary skill in the art would expect the need for an interlock when the step member is deployed rearwardly from a top edge of the tailgate as shown in Barbour and would not contact the vehicle when the tailgate is closed.

Serial No. 10/624,182

Atty Dkt No. 706263US2

With respect to Hsiao, Applicant contends that the Examiner's basis for combining Hsiao and Barbour is conclusory. Specifically, while Hsiao discloses a bell crank and an interlock arranged to operate in combination with a cam and cam follower arrangement to lock a control mechanism in place for use in a blindstitch tacker sewing machine, Hsiao never discloses the use of a closure member, let alone an interlock arrangement for a closure member.

Accordingly, Applicant contends that independent claim 1 is patentably distinguishable over the references applied by the Examiner. With respect to dependent claims 2 - 16, without conceding the Examiner's position, Applicant contends these claims present additional limitations to those of independent claim 1, and are therefore allowable for the same reasons indicated above.

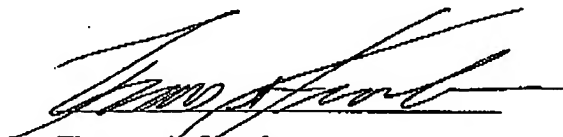
In addition, Applicant notes that dependent claims 5 and 8 are distinguishable over the applied references as the references do not disclose the limitations required by these claims. More specifically, dependent claim 5 requires that the distance from the step member joining segment in a generally vertical deployed position to the ground is half the distance from the closure member in the generally open horizontal position to the ground. Dependent claim 8 requires that the joining segment further includes an access hole to facilitate deployment of the step member. Barbour does disclose an access hole 25, however the hole is located in an aesthetically pleasing cover plate 23 and not in a step member joining segment as required by dependent claim 8.

Serial No. 10/624,182

Any Dkt No. 706263US2

In view of the foregoing remarks, Applicant submits that the claims are patentable over the prior art and the application is in a condition for allowance. Applicant respectfully requests reconsideration and an early notice of allowance. The Examiner is cordially invited to telephone the undersigned for any reason which would help advance the instant application to allowance.

Respectfully submitted,



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